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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,581	08/25/2000	Hugh H. Birch	2610	5783

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EXAMINER
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THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/648,581

Applicant(s)

BIRCH ET AL.

Examiner

Marissa Thein

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) filed on January 22, 2001 is being considered by the examiner.

### ***Drawings***

The drawings filed on August 25, 2000 are accepted.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the supplier includes" in page 37, lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "wherein each quote is obtained from each non-preferred provider" in page 40, lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,794,207 to Walker et al.**

Regarding claim 1, Walker discloses a computer-implemented method of matching an offer for a product with a quote (col. 8, lines 28-33) comprising:

- Receiving the offer from a customer machine (col. 8, lines 44-49);
- Obtaining at least one quote for the product from a first preferred provider in a group of preferred providers (col. 9, lines 17-30);
- Evaluating the one quote to determine if the quote satisfies the offer (col. 9, lines 17-30);
- If at least the one quote does not satisfy offer, repeating the obtaining of the quote and the evaluating of the quote from each preferred provider until the offer is satisfied is exhausted (col. 8, lines 15-17; col. 19, lines 13-60);
- If the group of preferred providers is exhausted without satisfying the offer, attempting to satisfy the offer from a group of non-preferred providers (sellers making a counteroffer) (col. 22, lines 40-60); and
- If the offer is satisfied from either group, negotiating the purchase of the product from the provider associated with the satisfying quote (col. 19, line 61-col. 20, line 4; col. 23, lines 6-18).

Regarding claim 2, Walker discloses wherein attempting to satisfy the offer from the group of non-preferred providers comprises: obtaining at least one quote; evaluating the one quote to determine a most competitive quote; if the most competitive non-

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preferred quote can satisfy the offer, selecting the most competitive quote as the satisfying quote; and the most competitive non-preferred quote includes the lowest quote provided by a non-preferred provider. (See col. 22, line 40 – col. 23, line 18)

Regarding claims 4-11, Walker discloses the product is a travel service such as airfare (col. 16, line 6; col. 16, lines 12-26); evaluating the quotes provided by the preferred providers in descending order of value, from highest quote to the lowest quote, and selecting the highest quote that satisfies the offer (col. 19, lines 13-60; col. 20, lines 5-15); negotiation the purchase for the product which includes making a reservation (col. 19, line 61 – col. 20, line 5); a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43); wherein each preferred provider includes a respective associated preferred criteria, and the quote satisfies the preferred criteria (col. 19, lines 13-60); wherein attempting to satisfy the offer from the group of non-preferred providers comprises evaluating offers from the preferred providers that do not meet the preferred criteria (col. 10, lines 31-56); and a computer readable-medium (col. 12, lines 3-7; col. 12, lines 54-67).

Regarding claims 12, Walker discloses a computer-readable medium having instructions comprising: receiving from a customer an offer representing a value that the customer is willing to exchange (col. 8, lines 42-49; col. 15, lines 46-52); ranking each preferred provider in a plurality of preferred providers according to a preferred criteria (col. 9, lines 5-30; col. 18, lines 27-31; col. 13, lines 35-38); selecting a highest ranked preferred provider (col. 19, lines 13-28; col. 20, lines 5-15); and attempting to match the

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from the customer with the highest ranked preferred provider (col. 19, lines 55-60; col. 20, lines 5-15).

Regarding claims 13-15 and 19-23, Walker discloses negotiating a purchase of the product (col. 19, line 61-col. 20, line 4; col. 20, lines 50-68); repeatedly attempting to match the offer with other preferred providers until either the offer is matched or until the plurality of preferred providers is exhausted (col. 19, lines 13-60); wherein attempting to match the offer with is performed in descending order of the ranking associated with each preferred provider (col. 19, lines 13-60); the products includes travel service which comprises airfare (col. 16, line 6; col. 16, lines 12-26); a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43); preferred criteria is negotiated with the preferred provider (col. 19, lines 61-col. 20, line 4); and the preferred criteria comprises a round robin decision process based upon industry market share of the preferred providers (col. 19, lines 13-54).

Regarding claims 16-18, Walker discloses wherein if attempting to match the offer with other preferred provider is unsuccessful, attempting to match the offer with one of a plurality of non-preferred providers (sellers that respond to a CPO by issuing a binding counteroffer) (col. 9, lines 44-50; col. 22, lines 40-51); obtaining from one or more non-preferred providers a quote to provide the product, and selecting the lowest quote (col. 23, line 40 – col. 24, line 18); and a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43).

Regarding claim 24, Walker discloses a computer system (col. 11, lines 52-65) for matching offer with quotes, comprising: online travel service exchanger, including a

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web server component configured to interface with a customer machine and receive from the customer machine an offer for a product (col. 11, lines 52-65; col. 15, lines 31-44); a travel server component configured to obtain at least one quote with each provider in a plurality of providers to provide the product at a cost, the plurality comprising two groups, a preferred-provider and a non-preferred providers group (col. 15, lines 31-44; col. 16, lines 12-45); and the online travel service exchanger being further configured to attempt to match offer with each preferred provider in descending order of preference (col. 16, lines 12-45).

Regarding claims 25-29, Walker discloses the online travel service exchanger is further configured to negotiate a purchase of the product from the provider selected as a match for the offer (col. 19, line 61 – col. 20, line 4; col. 20, lines 31-48); a global distribution system (col. 14, lines 9-25; col. 15, lines 30-43); wherein the online travel service exchanger is further configured to evaluate quotes provided by each preferred provider in descending order of preference in ranking by determining whether the quotes provided satisfy a preferred criteria associated with preferred provider (col. 18, line 54 – col. 19, line 54); and the exchanger is further configured to attempt to match the offer with one of the non-preferred providers (sellers making a counteroffer) by evaluating quotes supplied by the non-preferred providers to identify a lowest quote and selecting the lowest quote as the matching quote (col. 22, line 40 – col. 23, line 18).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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U.S. Patent No. 5,797,127 to Walker et al. discloses the pricing and selling of airline tickets.

U.S. Patent No. 6,085,169 to Walker et al. discloses a system for managing the sale of such goods and services by a seller to customers who have submitted an offer for the purchase of such items.

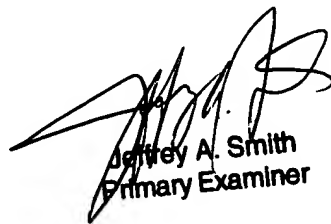
U.S. Patent No. 6,356,878 to Walker et al. discloses a system and method for administering the purchase of such goods and services by customers who have submitted one or more purchase offers for the purchase of such items.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Mtot  
May 18, 2003



Jeffrey A. Smith  
Primary Examiner